

## **SECTION 00200**

### **INSTRUCTIONS TO BIDDERS - FTA**

#### **1.1 BID FORMS AND DRAWINGS**

- A. Prequalification Prior to Submitting Bid Forms.
  - 1. Prospective Bidders proposing to bid on any work to be awarded by the Authority shall be pre-qualified and certified in accordance with the Authority's "Procedures Governing Classification and Rating of Prospective Bidders", if the value of work to be bid added to the value of the Prospective Bidder's uncompleted work already under contract with the Authority will aggregate \$1,000,000 or more. (Also see Article 1.12 of this Section.)
  - 2. For work aggregating under \$1,000,000, pre-qualification and certification is desirable, but not required.
- B. Issuance of Bid Forms and Drawings.
  - 1. Prequalified Bidders shall obtain from the Contract Administrator a "[Request to Bid Form](#)" and submit same properly filled out to the Contract Administrator for approval. Authority will consider each "Request to Bid Form" and determine whether or not the prospective Bidder will be permitted to submit an electronic bid using Project Bids Software.
  - 2. The Notice to Bidders, Instructions to bidders, and Bid Form, specifying limits, location and description of the contemplated work, time within which the work must be completed, certain special requirements for the particular Contract, and estimates of the various quantities of the Work to be performed and materials to be furnished will be provided to permitted bidders. Permission to bid will also entitle the prospective Bidder to a set of Contract Drawings, Contract Specifications, and other Contract Documents relating to the contemplated work.
  - 3. Copies of the aforementioned documents, for informational purposes only, are made available to interested parties as described in the Notice to Bidders for each construction project.

#### **1.2 INTERPRETATION OF BASIC ESTIMATE OF QUANTITIES**

- A. Bids will be compared on the estimate of quantities of work to be done, as shown in the Bid form.
  - 1. Quantities in the Bid Form are approximate only, being given as a basis for the comparison of bids. Authority does not expressly or by implication agree that the actual amount of Work will correspond therewith, but reserves the right to increase or decrease the amount of any class or portion of the Work, as may be deemed necessary or expedient by the Authority.

- B. Bidders shall submit their bid upon the following express condition which shall apply to and become part of every bid received, viz: An increase or decrease in the quantity for any item shall not be regarded as cause for an increase or decrease in the Contract unit prices, nor in the time allowed for completion of the Work, except as provided in the Contract. (Also see the General Conditions)

### 1.3 EXAMINATION OF CONTRACT DOCUMENTS AND SITE OF WORK

- A. Before submitting a Bid, each prospective Bidder shall (1) examine Contract Documents thoroughly; (2) visit the site to be familiar with observable conditions that may in any manner affect cost, progress, or performance of the Work; (3) be familiar with Federal, State, and local laws, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the Work and; (4) study and correlate information thus determined with the Contract Documents.
- B. By submitting a bid the Bidder represents that every requirement of this Article and the following Article 1.04 has been complied with and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.
- C. Complete information and authorization for the Bidders to view the site of the work on Massachusetts Bay Transportation Authority's property shall be obtained from the office of Mr./Ms. **(Project Manager's name)** Manager, Telephone No. (617) **XXX-XXXX**.
- D. The Authority will conduct an inspection tour of the site on **Month/Day/2000**. Bidders are requested to be present in front of the **(location to be specified)** at **XXXXXXX** Street and **XXXXXXX** Street, **XXXXXXX** Massachusetts, at 10:00 a.m. to participate in the tour. Bidders are advised that they should have representation at this tour as no extra visits are planned. **[Site tour to be incorporated only when essential to bidding the contract.]**
- E. In addition to visiting the site for the purposes as specified above the Bidders shall visit the site to ascertain pertinent local conditions readily determined by inspection and inquiry, such as the location, accessibility, traffic conditions and general character of the site, labor conditions, the character and extent of existing work within or adjacent thereto, and any other work being performed.
- F. The Authority does not guarantee or represent that existing construction or conditions conform to the Drawings. The Bidder shall visit the site and satisfy himself as to existing conditions. All necessary information shall be verified in the field before fabrication of new material. No claim for extra cost will be allowed by the Authority because of the Contractor's unfamiliarity with site conditions.

### 1.4 SUBSURFACE CONDITIONS DATA

- A. Where investigation of the subsurface conditions and rock conditions has been conducted for the Authority by independent soil engineering consultants in

those areas where the project work is to be performed, prospective Bidders may inspect the records of such investigations including the soil and rock samples and cores as are available at the locations and at the times as may be indicated in the Supplementary Conditions, or as otherwise stated in the Contract Documents. All reports relating to subsurface investigations in the Supplementary Conditions will be listed under one of the three following classifications which are defined in subsequent designated paragraphs.

- B. MBTA Geotechnical Data Reports. These reports contain selected records of field and laboratory investigations and testing of subsurface soil and rock conditions that have been prepared for design purposes by geotechnical engineering consultants or in behalf of the Authority. They are identified in the Supplementary Conditions and are hereby made a part of the Contract Documents. Authority warrants that the boring information represents the subsurface conditions only at the specific boring location and that prospective Bidders shall form their own opinion and conclusions from these reports and Authority shall not be held responsible in any way for deductions, interpretations, or interpolations between borings, or any conclusions drawn from them by the prospective Bidders.
- C. Other Geotechnical Data Reports. These reports include records of field and laboratory investigations and testing of subsurface soil and rock conditions that have been prepared for agencies other than Authority and records of field and laboratory investigations and testing prepared for the Authority but which have not been included in the MBTA Geotechnical Data Reports. These reports which may not necessarily have been used for design purposes are not made part of the Contract Documents but are listed in order that prospective Bidder may have access to the same information as Authority. Prospective Bidders shall form their own opinions and conclusions from these reports and Authority shall not be held responsible in any way for the accuracy of soil representation or any deductions, interpretations or conclusions drawn from them by prospective Bidders.
- D. Geotechnical Interpretative Reports. Information provided by these reports generally includes the following:
  - 1. The subsurface conditions as interpreted from available Authority data reports.
  - 2. The effect of these conditions on project design.
- E. Information, interpretations and conclusions presented in these reports are not necessarily an accurate representation of existing conditions and therefore are not made part of the Contract Documents but are furnished in order that all Bidders may have access to the same information as Authority. Prospective Bidders shall form their own opinions and conclusions from these reports and Authority shall not be held responsible in any way for the accuracy of soil representation or any deductions, interpretations or conclusions drawn from them by prospective Bidders.
- F. Test boring logs for test borings indicated and identified on the Contract Drawings are included in the Geotechnical Data Report.
- G. In addition to any geotechnical information presented in the sources and

classifications listed above, the results of environmental testing performed during the subsurface investigation program are included in the Geotechnical Data Report.

1. The Geotechnical Data Report for the **XXXXX** dated **XXXXX** will be (issued or made available at a charge of **XXX** which is not refundable) to all prospective bidders with the bidding documents.
2. Refer to Article **X.XX** of these instructions for further information pertaining to Geotechnical and Environmental reports.

## **1.5 PREPARATION OF BIDS**

### **A. Bid Prices.**

1. Bidder shall submit the Bid electronically after using Project Bids Software to prepare the bid submission package. Bids are to be submitted at: <https://www.bidx.com>
2. Price for any item, bid and contracted for, unless otherwise noted or specified, shall include full compensation for all materials, equipment, tools, labor, and incidental work necessary to complete the item to the satisfaction of Authority. Prices, without exception, shall be net, not subject to discount, and shall include all royalties and costs arising from patents, trademarks, and copyrights in any way involved in the Work.
3. The Schedule of Bid Prices included in the electronic bid submission will be used for the indicating of the Bid price information specified above.
4. In the event that there is an error in the computed totals based upon the unit prices and estimated quantities, the unit prices shall govern.

### **B. Addenda.**

1. Prospective Bidder shall acknowledge receipt of Addenda by noting the numbers of those received on the appropriate form contained in the electronic bid package.

### **C. Signatures.**

1. Bid shall be submitted using secure electronic signature provisions built into the bid submission function of the AASHTOWare's Project Bids software.
  - a. If Bid is made by an individual, that person's name and post office address shall be stated.
  - b. If Bid is made by a firm, partnership, or corporation, it shall be signed by a person having such legal authority from said firm, partnership or corporation and the person so signing Bid shall give his own name and title (if any) in addition to the name and

address of the firm, partnership, or corporation. If Bid is made by a firm or partnership, names and addresses of the individual members shall be given.

- c. If Bid is made by a corporation, the name of the State under the laws of which the corporation was chartered and names and titles of the President, Treasurer, and Secretary or Clerk of the corporation shall be given.
- d. If Bid is made by two or more individuals, a joint venture must be formed for the purpose of submitting such a bid. The joint venture company must be prequalified as described previously in section 1.1.A.1

D. Affidavits.

- 1. Bidder shall certify on the affidavit form included with Bid that:
- 2. To the best of the Bidder's knowledge, said Bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such Contract.
- 3. Bids must contain the properly completed affidavit of non-collusion folder contained in the electronic bid submission package

## **1.6 DELIVERY OF BIDS**

A. Prior to the time set for openings of Bids, Bidder shall submit Bid as follows:

- 1. All bids must be submitted using AASHTOWare's Project Bids software at [www.bidx.com](http://www.bidx.com)
- 2. A Bid may also be modified or withdrawn by a Bidder or the Bidder's authorized representative, using the capabilities to modify or withdraw bids at [www.bidx.com](http://www.bidx.com), but only if the withdrawal is made prior to the exact time set for opening of Bids. (Also see Section 00100, Article 1.8).
- 3. The only acceptable evidence to establish the time of bid submission is the receipt generated by the bid submission function of the Project Bids software at [www.bidx.com](http://www.bidx.com).
- 4. Bidders are advised that the Bid Form must include a Bid price for each of the items listed on the Contract Schedule of Bid Prices. The omission of a Bid price for any of the items is cause for rejection of all Bid prices of the Bid.

## **1.7 BID GUARANTY REQUIRED**

A. In order to insure the faithful fulfillment of its term, each Bid shall be

accompanied by a Bid Guaranty. Bid Guaranty shall be in the amount as specified in the "Notice to Bidders" in the form of an acceptable bid bond, cash, certified check, treasurer's or cashier's check issued to the MBTA by a responsible bank or trust company or by a surety or insurance company licensed or authorized by the Massachusetts Division of Insurance to engage in the business of surety in the Commonwealth and satisfactory to the Authority. Bid Guaranty shall be enclosed in a sealed envelope and be submitted with the Bid Form.

## **1.8 WITHDRAWAL OF BIDS**

- A. Bidder may withdraw the Bid provided the request in writing is in the hands of Authority by the time set for opening Bids.
  - 1. When any such Bid is reached during the opening of the Bids, it will remain unread.

## **1.9 PUBLIC OPENING OF BIDS**

- A. Bids will be publicly opened and the total price of each bid read at the time and place indicated in the "Notice to Bidders." Any person may at reasonable times and in the presence of a duly authorized representative of Authority examine any or all Bids after they have been opened and read.

## **1.10 REJECTION OF BIDS**

- A. Bids which fail to meet the requirements of Articles 1.5, 1.6, and 1.7 of this Section or which are incomplete, conditional or obscure, or which contain additions not called for, erasures, alterations or irregularities of any kind or in which errors occur, or which contain abnormally high or abnormally low prices for any class or item of work, may be rejected as informal.
  - 1. On Federally Assisted (Financed) Projects, Bids will be rejected from any Bidder whose name appears on the U.S. Comptroller General's list of ineligible contractors for federally financed and assisted construction.
  - 2. Bidders are advised that the certificate pertaining to Ineligible Contractors on the electronic Bid Form must be completed in its entirety. Failure to fully complete and submit the required certification will be considered an informality and may render the Bid non-responsive.
- B. More than one Bid from the same Bidder, whether or not the same or different names appear on the signature page, will not be considered. Reasonable proof for believing that a Bidder is interested in more than one Bid for the Work contemplated will cause the rejection of all Bids made by the Bidder directly or indirectly. Any or all Bids will be rejected if there is reason for believing that collusion exists among Bidders. (See Article 1.14 of this Section.)

## **1.11 DISQUALIFICATION OF BIDDERS**

- A. Bidders whose Bids have been rejected because of evidence of collusion, as specified in Article 1.10 of this Section shall not be considered in future Bids for the same work and such Bidders may be disqualified from bidding on future work.

#### **1.12 COMPETENCY OF BIDDERS**

- A. No contract will be awarded except to a responsible Bidder who has been prequalified and certified in accordance with the Authority's "Procedures Governing Classifications and Rating of Prospective Bidders" and adjudged capable of performing the class of work contemplated, when bid amount added to the value of Bidder's uncompleted work already under contract with Authority would aggregate \$1,000,000 or more.
- B. When Bidder prequalification is not required, low Bidder or lowest responsible Bidder (if requested by Authority) shall submit within five business days after the opening of bids, a post-qualification statement, duly signed and sworn to, outlining Bidder's experience, equipment and financial resources, on forms prescribed or furnished by Authority. A Bidder who fails to comply with this requirement will not be considered for Award of the Contract.

#### **1.13 MATERIAL GUARANTY**

- A. Bidder may be required to furnish without expense to the Authority a complete statement of the origin, composition, and manufacture of any or all materials proposed to be used in the construction of the work, together with samples, which may be subjected to the test required by Authority to determine the quality and fitness of the material.

#### **1.14 CONSIDERATION OF BIDS**

- A. Authority reserves the right to reject any or all Bids, to waive technicalities, to advertise for new Bids, or proceed to do the Work as may be deemed to be in the best interests of the Authority.

#### **1.15 AWARD OF CONTRACT**

- A. Basis of Award. The Contract will be awarded by the Authority subject to the reservations of Section 00200 Article 1.14 as specified above, within 60 calendar days after opening of Bids to the lowest responsible and eligible Bidder whose Total Estimated Contract Bid Price, based upon the proposed schedule [of unit, lump sum, and allowance] Bid Prices, is the lowest Bid received. The successful Bidder will be notified in writing by mail or otherwise that Bid has been accepted and that Contract has been awarded.

#### **1.16 CANCELLATION OF AWARD**

- A. Authority reserves the right to cancel the award of any contract at any time before the execution of the said contract by all parties without any liability against the Authority.

#### **1.17 RETURN OF BID GUARANTY**

- A. Bid Guaranty in the form specified in Article 1.07, except those of two lowest bidders will be returned within five days following opening of Bid.
- B. Bid Guarantees of lowest bidder and second lowest bidder will be retained until execution of the contract, previous to which, however, either Bidder who submitted cash, certified check, treasurer's or cashier's check as Bid Guaranty, may substitute a bid bond in an acceptable form furnished by a surety or insurance company licensed or authorized by the Massachusetts Division of Insurance to engage to the business of surety in the Commonwealth and satisfactory to the Authority.
- C. After 60 days from the opening of Bids (as specified in Article 1.15), low Bidder may withdraw the Bid and request return of the Bid Guaranty, in which case Bid Guaranty of lowest Bidder and second lowest Bidder will be returned and second lowest Bidder's Bid shall not be considered or award. After 60 days from the opening of Bids (as specified in Article 1.15), second lowest Bidder may withdraw the Bid and request return of the Bid Guaranty, in which case only Bid Guaranty of second lowest Bidder will be returned.

#### **1.18 CONTRACT BONDS REQUIRED**

- A. Performance Bond in the full amount of the Contract will be required by Authority to ensure faithful performance of the Contract.
- B. Labor and Materials Payment Bond in the full amount of the Contract will be required to be furnished by the Contractor to Authority as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. Said security shall remain in force until the validity of all claims shall be determined and if valid, paid by the surety.
- C. Name of the agency or agent writing these bonds shall be identified with or on the bond.
  - 1. Surety may be a bond in an acceptable form furnished by a surety or insurance company licensed or authorized by the Massachusetts Division of Insurance to engage in the business of surety in the Commonwealth and satisfactory to the Authority.
  - 2. All Alterations, extensions of time, extra work and any other changes authorized under these specifications, or under any part of the Contract may be made without obtaining the consent of the surety or sureties on the Contract Bonds.

#### **D. [Add the following paragraph only for Contracts under \$1,000,000]**

The two lowest bidders shall submit a letter of commitment from his proposed surety indicating that Performance and Labor and Material Payment Bonds will be issued, if the Bidder is successful, in such sums as required by the Authority. The letter of commitment shall be delivered to the Authority within 3 days of the Bid opening.



## **1.19 EXECUTION OF CONTRACT**

- A. Successful Bidder shall execute and deliver the Contract and furnish the required surety and certificate of insurance to Authority within 10 days after the date of the Notice of Award.
- B. Contract shall be in writing and shall be executed in the number of copies required by the Authority. One fully executed copy will be delivered to the Contractor.

## **1.20 FAILURE TO EXECUTE CONTRACT**

- A. Should successful Bidder fail to execute the Contract and furnish the surety and certificate of insurance within the time stipulated, Authority may, at its option, determine that Bidder has abandoned the Contract and thereupon Bid and acceptance shall be null and void. Guaranty accompanying Bid shall be retained and collected by Authority. It is agreed that this Article shall be construed and treated by the parties to the Contract not as imposing a penalty upon said Contractor for failing to fully execute The Contract as agreed on or before the time specified in Bid, but as liquidated damages to compensate Authority for additional costs incurred by Authority because of the failure of the Contractor to fully execute the Contract on or before the date specified in Bid.

## **1.21 INTERPRETATIONS OF BID DOCUMENTS**

- A. All questions about the meaning and intent of Bid Documents shall be submitted in writing, to the Capital Delivery Project Manager of the Massachusetts Bay Transportation Authority, at the address specified in the Notice to Bidders. To be given consideration, all questions must be received at least 10 days prior to the date fixed for the opening of Bids. An interpretation of all questions which Authority elects to give will be issued by written Addenda. Only questions answered by formal written Addenda will be binding. Oral communications or interpretations will be without binding legal effect. Addenda will be mailed, by certified mail with return receipt requested, to all who obtained Bid Documents. All Addenda so issued shall become part of the Bid Documents. Obvious discrepancies in Bid Documents which are not addressed by a Bidder in accordance with the above procedure will be construed against the successful Bidder should a dispute arise.
- B. A separate copy of the questions referring to meaning and intent of the Bid Documents shall be mailed to the Project Manager, at the address specified in the Notice to Bidders, and to be given consideration must be received at least 10 days prior to the date fixed for the openings of Bids. All interpretations the Authority elects to give will be made in the form of written Addenda to the Contract Documents, which Addenda shall become a part of the Bid Documents. The Addenda will be mailed to all persons who obtained Bid Documents in the manner described in the Notice to Bidders.

## **1.22 MASSACHUSETTS SALES AND USE TAX LAW OF 1967**

- A. Attention of Bidders is directed to the Massachusetts Sales Tax, Chapter 64H,

Section 6, and the Massachusetts Use Tax, Chapter 641, Section 7, which state that these taxes are not applicable to the sales of construction materials and supplies incorporated, consumed, employed or expended in Construction Contracts of this Authority. This exemption is also applicable to rental charges for construction vehicles, equipment and machinery rented, specifically for use on the site of the Authority's construction projects. Bidders are directed to exclude any allowance for Sales or Use Tax from their Bids as said tax would relate to the foregoing specific categories.

### **1.23 NOT USED**

### **1.24 DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION PROVISION**

- A. All Bidders are directed to the assurance to be submitted with their Bids that they will make sufficient and reasonable efforts to meet the stated DBE goal for this Contract. This assurance is provided on the EEO Certification and DBE Assurance folder of the electronic bid package. Please note that if the bidder does not meet the DBE goal when submitting their bid, they must submit "Good Faith Efforts (GFE's) to [MBTAbidbonds@mbta.com](mailto:MBTAbidbonds@mbta.com) . Bidders are advised to refer to Appendix 3 of Supplementary Conditions for guidance. If the bidder does not adhere to this requirement, then the bidder will be deemed non-responsive.

For guidance relative to Good Faith Efforts ( GFE's) please refer to the links below to the MBTA DBE Program page with FTA's guidance to bidders on GFE submissions at time of bid (49 CFR 26 Appx. A, ss. IV(A)-(H):

<https://www.mbta.com/business/disadvantaged-business-enterprise-dbe-program>

[https://www.transportation.gov/sites/dot.gov/files/docs/Official\\_Questions\\_and\\_Answers\\_49\\_CFR\\_Part\\_26\\_1.pdf](https://www.transportation.gov/sites/dot.gov/files/docs/Official_Questions_and_Answers_49_CFR_Part_26_1.pdf)

- B. Bidders are directed to the requirements of the Disadvantaged Business Enterprise List folder of the electronic Bid Package included as Appendix 3 of the Supplementary conditions. The Disadvantaged Business Enterprise Participation Letter of Intent form, the Disadvantaged Business Enterprise Affidavit form, and the Disadvantaged Business Enterprise Unavailable Certification form may be reproduced for additional copies. Failure to comply and submit the required documentation will render the Bid non-responsive.
- C. Bidders are reminded that the MBTA will only accept DBE's that are certified by the Massachusetts Unified Certification Program (UCP) or an out-of-state firm certified under Section 8(a) of the Small Business Act. The two lowest Bidders must submit the DBE(s) most recent certification letter(s) within three business days of the bid opening.

### **1.25 BUY AMERICA**

- A. This solicitation and the resulting contract are subject to the Buy America requirements of 49 U.S.C. §5323(j) and the Federal Transit Administration's implementing regulations found at 49 CFR Part 661. These regulations require, as a matter of responsiveness, that the bidder or offeror submit with its offer a completed certification in accordance with § 661.6 or § 661.12, as appropriate.
- B. A Buy America Certificate, contained in the electronic bid package, must be completed and submitted with the bid. A bid which does not include the completed certificate will be considered non-responsive.
- C. A waiver from the Buy America Provision may be sought by the Authority if grounds for the waiver exist.
- D. Section 165a of the Surface Transportation Assistance Act of 1982, as amended, permits FTA participation on this contract only if steel, iron and manufactured products used in the contract are produced in the United States.

#### **1.26 FUEL AND ASPHALT PRICE ADJUSTMENT CLAUSE**

- A. Should this Contract contain a fuel and asphalt price adjustment clause, the Supplementary Conditions of the Contract Specifications will provide information for baseline prices and application guidelines.

#### **1.27 PREBID CONFERENCE**

- A. A Pre-bid Conference will be held on **[date, 2023, time]** as a virtual on-line meeting. Details regarding the pre-bid conference will be provided upon request of the specifications. It is imperative that prospective Bidders have a representative attend this meeting. Any request for interpretation of drawings and specifications should be submitted in writing at the same time.

#### **1.28 NOT USED**

#### **1.29 EQUAL EMPLOYMENT OPPORTUNITY (EEO)**

- A. Attention of all Bidders is directed to Section 00700, General Conditions, and Paragraph X of the Supplementary Conditions. Compliance with these Specifications requires completion in full of the certification contained in the electronic bid package. Failure to comply fully and submit the required Certification may render the Bid non-responsive.

#### **1.30 BIDDER STATUS IDENTIFICATION**

- A. Bidder's attention is directed to the applicable folder in the electronic bid package regarding status identification. Bidders are advised that the applicable section of the above must be completed in its entirety.

#### **1.31 CERTIFICATION OF DUMPING FACILITIES *(Include this Article only if applicable)***

- A. Bidders are advised that the Certification of Dumping Facilities folder in the electronic bid package must be completed in its entirety.

### **1.32 RIGHT-TO-KNOW LAW**

- A. Bidders are advised that the Right-to-Know Law Certification folder in the electronic bid package must be completed in its entirety.

### **1.33 APPEALS AND PROTEST PROCEDURES**

- A. **Introduction** -The following procedures apply to all MBTA procurements, including those that originate from and are the responsibility of the Procurement and Logistics Dept (Goods and Services Purchases) and the Capital Delivery Department (Construction and Professional Services contracts). Interested parties (Interested Party means an actual or prospective bidder, proposer or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract) must follow the procedures specified for the particular procurement that is being appealed/protested. In the event that an interested party has an appeal/protest for a procurement/contract that involves an area of responsibility not identified herein, the appeal/protest must be sent to the MBTA's Chief of Staff, General Manager's Office, Ten Park Plaza, Boston, for review. A protest will be processed in the time frames and structure as specified below. In addition, the MBTA will disclose information regarding the protest to the Federal Transit Administration (FTA) in writing.
- B. [MBTA Protest Procedures](#)

### **1.34 Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

- A. The Bidder will meet the requirements of 49 CFR Part 29 related to Debarment, Suspension, Ineligibility and Voluntary Exclusion.
- B. In accordance with 49 CFR Part 29 and the "Instructions for Certification", the Bidder must complete the Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion folder in the electronic bid package in its entirety. Bidders will provide either a "Primary Participant" certification, if the contract value is \$100,000.00 or more, or a "Lower Tier" certification, if the contract value exceeds \$25,000.00 and is less than \$100,000.00.
- C. Lower Tier Certification (including DBE Subcontractors) is **not required as part of the bid submittal** but may be submitted as soon as practicable but in all cases prior to subcontractor approval by the Authority in accordance with the General Conditions Section 00700.
- D. In the event a Bidder cannot provide a certification as set forth above, an explanation will be provided and attached to the certification.

## 1.35 Lobbying Restrictions

### A. Restrictions

1. The Contractor shall timely comply with the requirements of the lobbying restrictions set forth in Section 301 of Public Law 101 - 121, as implemented by the Department of Transportation in 49 C.F.R. Part 20, and as those authorities may be hereafter amended.
2. If a Standard Form - LLL, "Disclosure Form to Report Lobbying", is required to be completed by the Contractor or subcontractor at any tier, such disclosure shall be furnished to the Deputy Director of Construction - Contracts.

### B. Certification of Restrictions on Lobbying

*(This Certification is applicable if the Bid exceeds \$100,000.)*

1. The Bidder certifies on the Certification on Restrictions on Lobbying folder contained in the electronic bid package, to the best of his or her knowledge or belief that it and it's Principals:
  - (a) No Federal appropriated funds have been paid, or will be paid, by or on behalf of the undersigned, to any person for the influencing or the attempting to influence an officer or employee of any agency, Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering of any cooperative agreement and the extension, continuation, renewal, Amendment, or modification of any cooperative of any Federal contract, grant, loan or agreement.
  - (b) If any funds other than Federal appropriate funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
  - (c) The undersigned shall require that the language of this certification be included in the award Documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made and entered

into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 or not more than \$100,000 for each failure.

### **1.36 STANDARD PLANS *(Add this Article when applicable)***

- A. The Authority's "Railroad Operations Book of Standard Plans - Track and Roadway" is available at no charge on MBTA.com. Also, the MBTA's Standard Plan entitled "MBTA Railroad Operations - Commuter Rail Design Standards Manual", is available at no charge on MBTA.com.

### **1.37 CERTIFICATION OF CONSTRUCTION EQUIPMENT STANDARD COMPLIANCE**

- A. The contractor certifies that all diesel construction equipment used in this contract shall have emission control devices installed, such as oxidation catalysts or particulate filters on the exhaust system side of the diesel combustion engine equipment.
- B. Bidders are advised that the MBTA Construction Equipment Standard Compliance folder in the electronic bid package must be completed in its entirety.

### **1.38 CERTIFICATION OF UNDOCUMENTED WORKERS**

- A. The contractor certifies that all workers and employees used in this contract are legally documented workers and that the Contractor has verified the immigration status of all workers assigned to the Contract.
- B. Bidders are advised that the MBTA Contractor Certification for Undocumented Workers folder in the electronic bid package must be completed in its entirety.

### **1.39 OSHA TRAINING CERTIFICATION**

- A. Attention of all Bidders is directed to Section 00700, General Conditions, regarding worker safety training. Compliance with these Specifications requires completion in full of the Certification of Work in Harmony and OSHA Training contained in the electronic bid package. Failure to comply fully and submit the required Certification may render the Bid non-responsive.

### **1.40 CONTRACTOR CERTIFICATION MBTA RETIREE PARTICIPATION DISCLOSURE**

- A. Bidders are advised that the MBTA Retiree Participation Disclosure folder in the electronic bid package must be completed in its entirety

**END OF SECTION**